

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 30th day of June, 1998

BEFORE

THE HON'BLE MR. JUSTICE V.P. MOHAN KUMAR

WRIT PETITION NO. 28693 OF 1994

C/w

WRIT PETITION NO. 28719 OF 1994

W.P.No. 28693/94

BETWEEN :

Karnataka State Road  
Transport Corporation,  
Kolar Division, Kolar  
represented by its  
Divisional Controller

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.. PETITIONER

(Sri N.D.R. Ramachandra Rao, Advocate)

A N D :

1. K.S. Prakash, major,  
residing at No. 4/45,  
Mysore Road,  
K.R. Nagar,  
Mysore District
2. The Presiding Officer,  
2nd Addl. Labour Court,  
Bangalore

(Sri. R.A. Shiraguppi for R-1)

.. RESPONDENTS

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W.P.NO. 28719/94

BETWEEN :

K.S. Prakash  
S/o Late B.K. Siddalingappa  
Age : Major  
Occ : Dismissed Employee of  
K.S.R.T.C.  
R/o 4/45, Mysore Road  
K.R. NAGAR  
Dist. Mysore

.. PETITIONER

(Sri R.A. Shiraguppi, Advocate)

A N D :

1. The Management of  
Karnataka State Road  
Transport Corporation  
KOLAR  
represented by its  
Divisional Controller
2. The Presiding Officer  
II Additional Labour Court  
Gandhinagar  
BANGALORE

.. RESPONDENTS

(Sri N.D.R. Ramachandra Rao for R - 1)

Writ Petitions filed under Articles 226 & 227 of  
the Constitution of India, praying to; issue a writ of



of certiorari or any other appropriate writ or order or direction to quash the impugned award dated 21.3.94 passed by the 2nd respondent in reference No. 43/89.


In Writ Petition No. 28719/94 the workers seeks a writ of mandamus modifying the award, awarding full backwages from the date of dismissal till the date of reinstatement, etc.

These Writ Petitions coming on for Hearing, this day, the Court made the following :

O\_R\_D\_E\_R\_

The employer as well as the worker challenged the award passed by the Labour Court in Ref.No. 43/89. The following charges are framed against the worker.

- "1. That you were arranging for the sale of unauthorised ticket books through Sriyuth R. Srinivas, Conductor K.C.No. 103 and T. Sathyanarayana Setty, Conductor, K.C.No. 149. These were the ticket books stolen from the stock of Divisional Accounts Section and also from the ticket books meant for destroying and you were arranging for the theft of the ticket books through Sri B.S. Ramachandra Reddy, Peon who was handling the key of the ticket section. Sometimes you yourself used to take away



excess ticket books from the stock of Accounts Section taking the Sr.Cashier in your confidence. The amount realised from the sale of these unauthorised tickets was being shared by you and all.

2. Though you had auditted the W.B.C.A's No. 74740 dt. 22.9.1981, 70931 dt.1.4.81, 71225 dt. 16.8.81 of Sri R. Srinivas, Conductor, K.C.No. 103 & 78192 dt.16.8.81, 93066 dt. 8.2.81, 97674 dt. 4.12.80, 50543 dt. 10.10.80, 50545 dt. 12.10.80, 93053 dt. 26.2.80 and 93074 dt. 26.1.80 of Sri. T. Sathyanarayana Setty, Conductor K.C.No. 149 and though they had sold the unauthorised tickets in the said way bills, you concealed the facts because of the understanding you had with the said conductors."


A domestic enquiry was held with respect to the charges. The worker was found guilty at the domestic enquiry. Accordingly the worker was dismissed from service, on 18.4.1988. He filed a claim petition under Section - 10 (4-A) of the I.D. Act before the Labour Court. Preliminary issues were framed regarding the validity of the domestic enquiry held. The Labour Court held




held that the domestic enquiry is not fair and proper. Both the parties had led evidence. After considering the evidence the Labour Court has come to the conclusion that the charges against the worker are not proved. Therefore it set aside the dismissal order and directed the Management to reinstate the worker. In doing<sup>so</sup>/the Labour Court denied backwages to the worker. The said award of the Labour Court is challenged by the Management in so far it relates to reinstatement and the worker challenged the same in so far it relates to denial of backwages to him.

I have heard Mr. N.D.R. Ramachandra Rao, learned counsel for the employer and Mr.R.A. Shiru - guppi learned counsel for the worker as well.

I am not satisfied that the award calls for any interference. The charges are no doubt very serious in nature. If the charges are serious




serious it is incumbent on the part of the Management to have established the charges. The name of three other workers i.e., Sri R. Srinivasa, Sri Sathyanarayana Setty and Sri B.S. Ramachandra Reddy are made mention in the charges alleging that they were also involved in the commission of misconduct and they are also liable to be punished. The Management has not taken any serious action against the workers mentioned in the charges except the worker in question and others are continuing their work as well. If as a matter of fact the charges against the worker in question are viewed as very serious it should have also taken strong action against the other workers as well. As can be seen from the charges the commission of misconduct are the conjoin act of 4 persons. If that be the position necessarily there should be active involvement of other persons also in the commission of offence. The learned counsel for the worker submitted that the other three persons have not been proceeded against and that they are still in service. If no action has been taken



taken against the said three persons, the action taken against the worker in question alone prima facie cannot be accepted. There is no allegation that the workers herein in the brain behind the conspiracy and that he is the kingpin of the crime. In these circumstances the Labour Court has correctly exercised its jurisdiction and interfered with the order of dismissal. Therefore I uphold the order of reinstatement.

The next question is regarding the backages. The dismissal is taken place on 18.4.1988. Materials on record shows at the domestic enquiry that there was some evidence to indicate that a racket was going on with respect to issuing tickets and selling them clandestinely. In such circumstances the Management is not expected to keep idle. In view of these circumstances the disciplinary action initiated by the Management has to be upheld. But if could not establish the charges to the hilt. That certainly does not means that the worker be awarded full backwages treating him as innocent of the charges. Therefore

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the award in respect of denial of backwages also does not call for interference. However the worker is entitled for the benefit of the wages from the date of award. Both the writ petitions are dismissed accordingly.

Sd/-  
JUDGE



Vb/Hrp